IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRIMINAL REVISION NO.653 OF 2007

DATE OF DECISION: JULY 31, 2007

Ishwar Dass

.....Petitioner

VERSUS

Subhash

....Respondent

CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH

1. **Whether Reporters of local papers may be allowed to see the judgement?**
2. **To be referred to the Reporters or not?**
3. **Whether the judgment should be reported in the Digest?**

PRESENT: Mr. Amit Kumar Jain, Advocate,
for the petitioner.

Mr. Vikas Sharma, Advocate,
for the respondent.

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RANJIT SINGH, J.

This revision is directed against the order convicting the petitioner under Section 138 of the Negotiable Instruments Act (for short, “the Act”) and consequential award of 6 months RI coupled with fine of Rs.1,000/- and also against the order dismissing the appeal filed by the petitioner against his conviction and award of sentence. In addition to the sentence as afore-mentioned, the petitioner is also directed to pay a compensation of Rs.50,000/-.

The facts, in brief, are that Subhash, respondent, filed a complaint under Sections 420, 467, 468 IPC and 138 of the Act with the allegation that the petitioner had purchased four buffaloes from the complainant on 27.2.1998 for a

sale consideration of Rs.50,000/-. The petitioner issued a cheque in favour of the complainant for the sum of Rs.50,000/- to discharge the said liability. This cheque, when presented, was returned with the remarks reading "**insufficient funds"** . After service of notice, the complaint was filed, leading to summoning of the petitioner. After trial, the petitioner was convicted and sentenced, as already noticed. Having remained unsuccessful in his appeal, the present revision is now filed.

Main contention is that the matter has been compromised between the parties and sum of Rs.50,000/- due is already paid by the petitioner to the complainant as a full and final settlement. Copy of the compromise is annexed with the petition as Annexure P-1. Receipt showing payment of Rs.50,000/- is also enclosed as Annexure P-2. Noticing the factum of compromise, notice was issued to the respondent and sentence suspended. The counsel has appeared for the respondent and has admitted the compromise and also the receipt of the sum of Rs.50,000/-. As per the counsel, the respondent, has no objection if the revision petition is allowed.

The parties have compromised. The offence under Section 138 of the Act, for which the petitioner stands convicted, is a compoundable offence. The compounding of the offence in compoundable cases can be done during the trial as well as while the case is pending before the Courts, exercising revisional jurisdiction under Section 401 Cr.P.C. The effect of compounding the offence would be an acquittal of the accused. This legal position would emerge from the combined effect of the provisions of Sections 320 (6) and 320 (8) of the Cr.P.C. In his support, the counsel for the

petitioner has relied upon the case of ***Ramesh Chander Vs. State of Haryana and another,*** 2007 (1) RCR (Criminal) 245.

Since the matter has now been settled and stands compounded between the parties, the revision can be accepted. The revision is accordingly allowed. The petitioner is acquitted of the charge under Section 138 of the Act and the sentence awarded to him is set-aside.

July 31, 2007 **(RANJIT SINGH)**
khurmi **JUDGE**